

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2019-224-E
DOCKET NO. 2019-225-E**

IN RE: South Carolina Energy Freedom Act)
 (House Bill 3659) Proceeding Related to)
 S.C. Code Ann. Section 58-37-40 and)
 Integrated Resource Plans for)
 Duke Energy Carolinas, LLC and)
 Duke Energy Progress, LLC)
)
)

**MOTION FOR PROTECTIVE
ORDER**

INTRODUCTION

This Motion for Protective Order seeks to enforce the requirements of Rule 33(b)(9) of the South Carolina Rules of Civil Procedure against excess Interrogatories issued by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, (hereinafter together as, “Duke”) The Carolinas Clean Energy Business Association (hereinafter as, “CCEBA”), was granted Intervenor status by the Public Service Commission of South Carolina (hereinafter as, “Commission”), by substitution of CCEBA for the South Carolina Solar Business Alliance, Inc., by this Commission’s Order No. 2021-167, dated March 10, 2021. Between February 12 and March 12, 2021, Duke served four sets of Discovery Requests on CCEBA, and the Interrogatories therein exceeded the explicit limits of Rule 33(b)(9), of the South Carolina Rules of Civil Procedure, (“SCRCP”) and CCEBA’s Objections include that the Interrogatories were overbroad/unduly burdensome and requested proprietary information.

Additionally, Duke filed a Motion to Compel with this Commission on March 11, 2021, concerning “Discovery Request 1”, hereinbelow. In addition to CCEBA’s timely Objections to “Discovery Request 1”, described below, this Motion for a Protective Order is also timely interposed as being responsive to Duke’s Motion to Compel. CCEBA’s Motion for Protective Order follows.

Duke’s Discovery Requests.

Duke’s Discovery Requests to CCEBA, served on the dates indicated below were as follows:

- Discovery Request “1” – containing Interrogatories 1-1 through 1-28, and containing at least 67 subparts, served on February 12, 2021 with CCEBA’s Responses due on March 4, 2021. CCEBA served timely Responses/Objections to this set of Discovery Requests on March 2, 2021. Among other stated objections, CCEBA objected to Interrogatories “1-24(c) through 1-28” under Rule 33(b);

- Discovery Request “2” – containing an additional 14 Interrogatories, served on February 26, 2021 with CCEBA’s Responses due on March 18, 2021;
- Discovery Request “3” – containing an additional 9 parts or subparts of Interrogatories, served on March 3, 2021 with CCEBA’s Responses due on March 23, 2021; and
- Discovery Request “4” – containing an additional 21 parts or subparts of Interrogatories, served on March 12, 2021 with CCEBA’s Responses due on April 1, 2021.
- Total Interrogatories from Duke to CCEBA exceed 100.

MOTION

1. CCEBA, incorporating the Introduction and the paragraphs herein, hereby moves this Commission, pursuant to this Commission’s Regs., R. 103-829, R. 103-833 and R. 103-835; Rule 26(c)(1), SCRCP; and other applicable Rules and Regulations of this Commission, for a Protective Order in the above-referenced Dockets.

2. CCEBA seeks this Motion for Protective Order as to Duke’s Interrogatory Requests after “1-24(b)” (Discovery Request Set “1”); also as to Interrogatories/subparts contained in the entirety of Discovery Requests “2”; also as to Interrogatories/subparts contained in the entirety of Discovery Requests “3”; and also as to Interrogatories/subparts contained in the entirety of Discovery Requests “4”, all of which propound numbers of Interrogatories exceeding the explicit limits of Rule 33(b), SCRCP.

3. This Motion is relevant to Duke’s Interrogatories to CCEBA as denominated hereinabove, including future and subsequent Interrogatories to CCEBA in the above-referenced Dockets, (hereinafter together as “Duke’s Discovery Requests”).

4. CCEBA has attempted to resolve this dispute with Duke, but the parties have been unable to reach a satisfactory resolution.

Grounds for Motion.

5. The grounds for this Motion are as follows, the Introduction and numbered paragraphs herein, and Rule 33(b), SCRCP.

CCEBA Faces Particularized Harm.

6. This Motion should be granted in that CCEBA will suffer particularized harm, in that CCEBA would otherwise be responding to inappropriate Discovery Requests that will cause an undue burden by expense and expenditure of time.

CONCLUSION

Based on the foregoing, (i) the Introduction and paragraphs hereinabove (ii) Rule 33(b), SCRCF and (iii) CCEBA's showing of Particularized Harm, all of which taken together constitute good cause shown and this Commission should issue the requested Order of Protection tolling any requirement that CCEBA respond to all Interrogatories contained in Duke's Discovery Requests after Interrogatory "1-24(b), based on the reasons stated hereinabove. This Commission should grant the relief sought and such other and further relief as it may deem appropriate.

This 18th day of March, 2021

Respectfully Submitted,

/s/Richard L. Whitt,

Richard L. Whitt,
Richard@RLWhitt.Law
WHITT LAW FIRM, LLC
401 Western Lane, Suite E
Irmo, South Carolina 29063
(803) 995-7719

As Counsel the Carolinas Clean Energy Business Association.